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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 512 of 2005

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| Appellant | | National Insurance Company Ltd, through its Assistant Manager, B-1, Taha Complex, 2nd Floor, Ring Road No.2, Priyadarshini Nagar, Bilaspur, Chhattisgarh. |
| | Versus | |
| Respondents | 1. | Santosh Kumar Sinha, S/o RikhiramSinha, aged about 28 years, R/o Chorbhatthi, Tehsil- Saja, District- Durg, Chhattisgarh. |
| | 2. | Sadhoo Ram Sinha, S/o Sukhroo Ram, aged about 50 years. |
| | 3. | Smt. Tirath Bai, W/o Sadhoo Ram, aged about 42 years. |
| | | Respondents No. 2 and 3/claimants are residents of Ranveerpur (Charbhatha), Tehsil and District – Kawardha, Present address_ Village- Deortarai, Tehsil – Balod, District- Durg, Chhattisgarh. |

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

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Mr. Sanjay Kumar Agarwal, Advocate for the appellant.

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ORAL ORDER

( 28th November 2005)

1. In this appeal preferred by the Insurance Company, the liability fastened on the appellant/Insurance Company is questioned solely on the ground that the driver of the motor vehicle involved in the accident on the relevant date did not have valid and effective driving licence. This plea as a matter of fact was taken by the Insurance Company in the written statement filed by the Insurance Company before the Tribunal. Although such a plea was taken in the written statement, the Insurance Company has utterly failed to

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prove it. It is well settled that it is the burden of the insurer to establish that as on the date of accident the driver of the vehicle involved in the accident did not have valid and effective driving licence to drive the vehicle involved in the accident. The Insurance Company having failed to establish its plea cannot be exonerated from liability to pay compensation. The appeal is, therefore, dismissed.

Sd/-
Chief Justice
Judge

Sd/-
Satish K. Agnihotri
Judge

Thakur